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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/456,371	12/08/1999	HEINRICH BOLLMANN	12010	6395

28484 7590 07/16/2004

BASF CORPORATION
LEGAL DEPARTMENT
1609 BIDDLE AVENUE
WYANDOTTE, MI 48192

EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/456,371

Applicant(s)

BOLLMANN ET AL.

Examiner

Victor S Chang

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached NOTE.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 19,20,22,23 and 30.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

NOTE

1. Upon reconsideration, Applicants' arguments regarding the claim objection and rejection under 35 USC 112, first paragraph, in sections 4 and 6 of previous Office action mailed 5/11/2004 are persuasive. As such, the aforementioned objection and rejection are withdrawn.
2. With respect to Applicants' argument "Applicant is not claiming a process of forming a molded article, but is claiming a composite damping element received in a transverse link, a longitudinal link, a triangular link, a rear-axle subframe, a stabilizer, a spring-strut support, or a shock-absorber ..." (Remarks, page 7, first full paragraph) and "the Examiner is relying on impermissible hindsight to reach a determination of obviousness and there is no suggestion, teaching, or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings." (Remarks, page 8, first full paragraph), the Examiner notes that while certain embodiment, with proper structural recitation, may proven to be patentable, it is noted that the totality of the instantly claimed embodiments in the preamble including structurally non-descriptive species, such as a shock-absorber, which clearly fail to exclude the applied art from the scope thereof, because Bauvois clearly teaches a composite damping element, which absorbs shocks (see Office action mailed 1/7/2004, page 4, bottom paragraph), Applicants' argument to the contrary notwithstanding.

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With respect to Applicants' argument "Bauvois does not teach or suggest chemically bonding the foam core to the thermoplastic layer to produce the composite damping element." (Remarks, page 9, bottom paragraph), and Applicants also point to column 3, lines 50-68 in Bauvois' reference as teaching "An exothermic reaction occurs as the foam core 16 expands and the resin physically bonds the polyurethane shell 13". However, the Examiner notes that a careful reading of Bauvois reference does not provide the evidence that the bonding is "physically". Further, the Examiner repeats (see Office action mailed 5/11/2004, page 4, center paragraph) that since Bauvois' invention clearly teaches essentially the same process for forming the damping element as the instantly claimed invention, in the absence of unexpected results, the resulting bonding between the TPU shell element and the microporous polyurethane foam is anticipated to be the same.


With respect to Applicants' argument that "The foam core 16 is not repeatedly stressed and any such stresses are absorbed and damped by the polyurethane shell 13, the upper rigid plate 14 ..." (Remarks, page 10, first full paragraph), the Examiner notes that the number of stresses being repeated is not recited in any of the claims; further, the fact Bauvois discloses additional structural elements not claimed is irrelevant.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Victor S Chang
Examiner
Art Unit 1771

7/13/04


TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700